

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION
HELD TUESDAY, MAY 4, 2021, AT 5:00 P.M. THE MEETING WAS HELD
ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION, AS AUTHORIZED BY
UTAH CODE ANNOTATED §52-4-207(4).**

Members Present: Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine Mikell, Council Member Douglas Petersen

Staff Present: City Manager Tim Tingey, City Attorney Shane Topham, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, Records Culture and Human Resources Director Paula Melgar, Community and Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Administrative Services Director S. Scott Jurgens, Culture Manager Ann Eatchel, Assistant Police Chief Paul Brenneman

1. Welcome and Determination – Mayor Peterson.

Mayor Mike Peterson called the meeting to order at 5:05 p.m. and welcomed those listening. He read in its entirety the declaration giving the Council the authority to hold the meeting via Zoom, pursuant to Utah Code Annotated §52-4-207(4).

2. Review of Business Meeting Agenda – Mayor Peterson.

The agenda items were reviewed and discussed.

Mayor Peterson reported that the Business Meeting will include citizen comments as well as public comments on the gravel pit development and the proposed budget for fiscal year 2021/2022. There were also four action items related to the Tentative Budget, public artwork, the design and construction of a parade float, and an Interlocal Agreement with Salt Lake County for municipal election services. The consent calendar would also be reviewed.

Culture Manager, Ann Eatchel discussed Item 5.2 on the Business Meeting agenda, which was to approve an agreement with Malen Pierson for public artwork. Ms. Eatchel explained that the Arts Council wants a statue made out of metal sustainable materials to go on the side of City Hall. There had been a Request for Proposals (“RFP”) with two bids. The Arts Council selected Malen Pierson and wanted to move forward. Ms. Eatchel reported that the total cost is \$14,000 and the Arts Council already has those funds in their budget. Mayor Peterson felt it was a beautiful piece and applauded the focus on public artwork.

Item 5.3 on the Business Meeting agenda was next discussed. It involved a request for approval of an agreement with Modern Display Services, Inc. for the design and construction of a parade float. Ms. Eatchel reported that the material would be used for three different seasons. Typically, around \$11,000 is spent each year. There will be a savings of \$11,000 because the material would be used multiple times. There would be a 25% change to the float each year to match the theme. The City Council members discussed the fact that the materials will be reused and recycled.

Item 5.4 on the Business Meeting agenda was addressed. It involved an Interlocal Agreement with Salt Lake County for municipal election services. City Manager, Tim Tingey explained that the City Council would be considering the agreement with Salt Lake County. The agreement includes two options consisting of a traditional election or Ranked-Choice Voting. The Council Members were asked to approve the agreement and provide direction on the type of election format they would like to move forward with. The agreement would be formally submitted to the Lieutenant Governor's Office.

3. Staff Reports.

a. Short-Term Rentals and Accessory Dwelling Unit ("ADU") Ordinance Discussion – City Manager, Tim Tingey, and Community and Economic Development Director, Michael Johnson.

Mr. Tingey reported that a great deal of input had been received from residents about short-term rental concerns in the community. Some residents submitted questions and comments that could be forwarded to the City Council. Many of the questions would be addressed during the meeting but there would also be follow-up afterward to ensure that all questions were adequately addressed. Mr. Tingey explained that short-term rentals are challenging for many communities. Those challenges are due to the ordinances, enforcement efforts, and penalties and fines. Mr. Tingey noted that there would be discussion about the ordinances that are in place and possible modifications. They will also address enforcement challenges and options related to violations. Specific proposals would be brought back at a future City Council Meeting.

Community and Economic Development Director, Michael Johnson discussed the ordinances and reported that an Accessory Dwelling Unit ("ADU") was considered previously. The primary legislation during the Legislative Session pertained to ADUs rather than short-term rentals. HB 82 would permit owner-occupied internal ADUs in all residential zones in every city in Utah. However, local governments could impose certain limited regulations. Staff would return with a local ordinance for City Council consideration that complies with the State Code. Mr. Johnson clarified that ADUs are not short-term rentals. The legislation will have no impact on the regulation of short-term rentals in any given city.

Mr. Johnson reported that the current regulations in place for short-term rentals are governed by Chapter 19.89 of the Cottonwood Heights Zoning Code. The chapter allows short-term rentals as conditional uses but only in limited areas of the City. Certain criteria needed to be met including the following:

- The short-term rental must be in a zone that allows housing but is not single-family housing. (R-2-8, RM, Mixed Use, Neighborhood Commercial or Residential Office.)
- The units must be in private developments. (Planned unit developments, condominium projects, etc.)
- There must be at least eight units and all units must front private streets.

Short-term rentals are prohibited in single-family residential zones, such as R-1, RR-1, and F-1. Anywhere there is a single-family zone, regardless of whether it is on a public or private street, short-term rentals are not legally permitted. Short-term rentals are also prohibited in the R-2 zone if the units are on a public street.

Mr. Johnson reported that there are very few issues with legal short-term rentals. Nearly all of the issues with illegal short-term rentals have to do with the improper use of short-term rentals in a single-family zone. That means that the City is dealing with Code violations and enforcement. Mr. Johnson noted that a lot of the properties that had been reported in the past for violating City Code voluntarily ceased to operate. In those instances, the owners may not have known they were in violation. However, there are occasionally property owners that are aware of the violation. The definition of short-term rentals was as follows:

- According to State Code:
 - Short-term rental is defined as fewer than 30 days.
 - Long-term rental is defined as 30 or more days.
- According to City Ordinance:
 - Short-term rental is defined as being between 3 and 30 days.
 - Long-term rental is defined as 30 or more days.

One of the proposed changes to the ordinance pertained to the short-term rental definition in the City Ordinance. There had been some concern from residents that because short-term rentals are defined as between 3 and 30 days, it can be used as a loophole to rent for fewer than three nights. That would be an easy change to make. Council Member Petersen questioned the reasoning behind the existing definition. City Attorney, Shane Topham explained that the City Council at the time felt that a stay should be at least three days to qualify as a short-term rental. He did not agree that the definition would open up the door for rentals of less than three days because Section 19.59.040 of the short-term rental chapter specifies that rentals of fewer than three days are prohibited.

Mr. Johnson discussed penalties and enforcement. He explained that the penalty for operating an illegal short-term rental was as follows:

- 19.89.190: Failure to comply constitutes a violation of code. Citations may be issued and penalties may be imposed by the City. Each day that a violation occurs or continues is a separate violation.
- 1.08.020: It is a misdemeanor, punishable by imprisonment, not to exceed 6 months or a fine in any sum less than \$1,000. If the guilty party is a corporation, the fee may be increased to \$5,000.

Enforcement limitations were discussed. Mr. Johnson noted that imposing the fine is subject to the court process and the judge assessing the penalty. Additionally, in 2017 or 2018, the Legislature adopted a provision prohibiting cities from enforcing short-term rentals based on a property being listed on a website. Website listings could not be used as evidence of a short-term rental or be the basis for enforcement. That means that the City would need to gather clear evidence of an illegal short-term rental, which is a time and resource-intensive process. Council

Member Mikell asked why the provision had been adopted. Mr. Johnson believed it relates to freedom of speech. Just because a property is posted does not necessarily mean it is being used illegally.

Mr. Topham discussed enforcement issues. He believed that the approach laid out in Chapter 19.89 was appropriate for short-term rentals. Mayor Peterson recognized that from a legal perspective, the 3 to 30 days is defensible. However, from a resident perspective, there might be confusion about the language. Residents may believe short-term rentals are permitted for one to two days. He felt it may be valuable to be consistent with the State Code. Mr. Topham read from Section 19.89.040 and reiterated the fact that rentals of fewer than three days are prohibited.

Council Member Mikell brought up enforcement issues and resident frustration. Mr. Topham understood the frustration but felt that the ordinance is comprehensive. He discussed short-term rental violations in a subdivision and explained that Covenants, Conditions & Restrictions (“CC&Rs”) often limit the use of the property to residential use on a long-term basis. That was one area neighbors could explore.

Police Chief, Robby Russo, commented that it is unfortunate that website listings can no longer be used as an enforcement tool. He reported that the police used to look at short-term rental ads and present that information as evidence in court. They are no longer able to do so. Chief Russo outlined other issues related to enforcement. He explained that the police tried to provide enforcement independent of the information supplied by neighbors because those witnesses live in the neighborhood and there could be a fear of retaliation or intimidation. Chief Russo added that when short-term rental violations actually went to court, the judge often imposed a fine of less than \$200. Many viewed that as the cost of doing business. He felt that making it a Class A Misdemeanor and working in conjunction with the prosecutor to ask for harsher penalties could be a suitable approach.

Council Member Petersen wondered how many short-term rental violations actually went to court. Chief Russo explained that very few went to court because it was difficult for them to defeat the charge at that point. However, a lot of resources were expended. The short-term renter would not receive a penalty as they acted in good faith. The actual property owners would deal with the violation. Mayor Peterson hoped the City Council could look at the City Ordinances to ensure they are as tight as possible. He supported anything that would send a stronger message.

Mr. Johnson shared the following staff suggestions with the City Council:

- Revise the definition of short-term rental to match State Code;
- Clarify penalties within the body of the short-term rental ordinance;
- Public information effort to increase awareness of the City’s rules and regulations; and
- Legal and enforcement recommendations.

A full set of recommendations would come back to the City Council to address the suggestions. Mayor Peterson wondered if there was an opportunity to communicate the concerns of the Council

to the Justice Court Judge. Chief Russo believed there was. He had spoken to the Prosecutor who recognizes that this is an important issue.

Council Member Mikell asked for additional information about the legislation change that prohibited the use of websites. She suggested working with legislators to change that. Mayor Peterson supported that suggestion and noted that it could be brought up during meetings with lobbyists. Mr. Tingey explained that the Utah League of Cities and Towns' ("ULCT") Land Use Committee prepared for the upcoming Legislative Session. He felt these concerns could be shared with that Committee. Representative Gay Lynn Bennion commented that she would be glad to look into why that legislation was changed.

b. 2021-2022 Budget Discussion - City Manager, Tim Tingey and Finance and Administrative Services Director, Scott Jurges.

Mr. Tingey reported that there would be a public comment session on the Tentative 2021/2022 Budget and the City Council would consider adoption of it. There was still time to have additional discussions related to the budget. For instance, during the May 18, 2021, Work Session, the full two hours would be dedicated to budget discussions. Any modifications or additions could be discussed at that time.

The budget process was outlined. Mr. Tingey explained that the Tentative Budget followed the direction given by the City Council during the Council Retreat. Items that were identified as priorities had been implemented into the Tentative Budget document. Additionally, there had been a number of meetings with the Budget and Compensation Committees. Department Directors also provided additional information. Mr. Tingey overviewed the process moving forward as follows:

- May 4, 2021: Consider the adoption of the tentative budget;
- May 18, 2021: Work Session to further discuss the budget;
- June 1, 2021: Public hearing related to the budget adoption; and
- June 15, 2021: Set the final property tax rate and adopt the budget.

Finance and Administrative Services Director, Scott Jurges shared the Tentative Budget Packet with the Council. He reported that early projections of the General Fund ending fund balance for the 2020/2021 budget were approximately \$6.3 million. Of that, they were required by State Statute to hold 5% and an additional 1% by City Ordinance. There was also a reserve for compensated absences. Those items totaled nearly \$1.9 million, which would leave the City with approximately \$4.4 million available for appropriation at the beginning of the new budget year.

Property taxes were budgeted at \$8,113,137, which included new growth of \$50,000 as a placeholder while awaiting the Certified Tax Rate and actual new growth figure. This would be available in mid-June 2021. Mr. Jurges reported that the Certified Tax Rate for 2020/2021 is 0.001898. Sales tax revenues were overviewed. Last year, there was a lot of uncertainty due to the COVID-19 pandemic. As a result, the sales tax revenue budget was set at \$5,750,000. However, the expected sales tax revenues were slightly above \$7 million. Based on that growth trend, the sales tax revenue estimate for the Tentative Budget was \$7.2 million.

Class C Road Funds were budgeted at \$1,240,000, which was an increase of \$30,000 from the current year. The total revenues budgeted were \$1,530,000 greater in revenue than what was adopted for the current year budget. This was primarily due to the sales tax increases. The American Recovery Act of 2021 revenues had not been included. When they are received, a budget adjustment would be discussed with the City Council.

Mr. Jurgens discussed expenditures and started with the employee cost changes. The annualization of the market adjustment was put in place in January 2021 for a total of \$608,246. Approximately \$304,123 was included last year and now the additional \$304,123 would need to be included in the Tentative Budget. The Cost-of-Living Adjustment (“COLA”) was recommended at 1.4% based on the national Consumer Price Index (“CPI”) that ended in December 2020. The overall impact would be approximately \$115,383 and would be applicable to all employees who were not paid out of range. The current recommended merit increase would average 3.62% or one step in the new salary structure. The overall impact would be \$211,225 and would be applicable to employees who are not at the top of their respective salary range.

There was a health cost increase of 0.5%. The overall impact of that increase was approximately \$4,112. The minimum life, short-term disability, and long-term disability increased between 21 and 24 percent for a total of \$15,226. The year-over-year annualization of the current employee base showed a savings of approximately \$42,701 over what was budgeted for the current year. The total employee cost changes resulted in an increase of \$607,368 from the current budget.

The section, Other Department or Division Items, was overviewed. It was noted that elections need to add \$45,000 to cover the cost of City elections. The City Attorney costs included an inflationary increase of 1.4% to equal \$3,080 and the addition of \$30,000 to cover litigation costs not covered by the Trust. A \$2,500 contribution for the Forbush Cemetery was included and \$5,000 was added back to the Central Wasatch Commission membership contribution. \$66,000 was added to fund the Butlerville Days, which was cut out in 2020. There were also minor changes in finance and IT that relate to software that could take credit card payments online and additional licenses for Esri/GIG. Mr. Jurgens reported that there were also cost changes of \$38,000 in Community and Economic Development.

There was an overall police cost increase of \$135,500, which included VECC/Versaterm dispatch fees and overtime for snow days traffic control. There was an overall fire increase of \$161,000, which was a 4% placeholder. Mr. Jurgens explained that the Unified Fire Authority (“UFA”) had discussed having the increase be approximately \$117,727, which would represent a 3.02% increase. However, that had not been finalized. As soon as the increase is finalized, there will likely be a reduction in the budget. There was an overall increase of \$167,384 for Public Works, which included items such as additional storm water operations and seasonal help increase. The overall expenses for Other Department or Division Items totaled \$18,512,107. This was an increase of approximately \$1,270,032.

Mr. Jurgens overviewed transfers from the General Fund. Most of the transfers were standard, such as the Capital Projects Fund and Debt Service Fund. The Storm Water Fund included a transfer of \$193,570 to cover the difference between the fee and \$1.6 million in overall funding needed.

The overall impact of the changes outlined in the General Fund transfers was \$802,098. The ending Fund Balance would be approximately \$5,496,494, which would represent 25.5% of revenues included in the 2021/2022 budget. This was over the limit of 25% outlined in the Utah State Statute. As a result, the City Council would potentially need to transfer out an additional \$117,522 to follow the Statute.

Capital Improvements Fund revenues were overviewed. Mr. Jurgens reported that there is approximately \$87,146 available for appropriation at the beginning of the year. It was recommended that there be a transfer from the General Fund of \$1,832,762 and a transfer from the CDRA Funds of \$395,757. The latter would be a one-time transfer to cover the costs of projects that were funded from General Fund dollars in the past. Mr. Jurgens noted that there was an additional source of revenue from the quarter-of-a-quarter funding that would generate \$400,000 in annual revenue. However, clarification was needed to understand the start date for those funds. There were also projections for \$350,000 in grant revenue to offset the Solar Project at City Hall. That number would be adjusted when more information is known. Additionally, \$25,000 was budgeted for interest revenues.

Mr. Jurgens discussed the Capital Improvements Fund expenses. This included the Public Works Capital Improvements Fund (\$2,155,512) with items such as speed mitigation projects (\$39,480) and the Bengal Boulevard walkway and intersection (\$20,000). The trails projects included expenses of \$61,000 to complete funding for the Ferguson Canyon Park Project. Mr. Tingey reported that he received word that the project had received grant funding and the budget would need to be adjusted accordingly. Mr. Jurgens explained that if the City Council were to adopt the Capital Improvements Fund revenues and expenditures, there would be a need to transfer in an additional \$77,066. However, with the grant funding, this may not need to be done.

The Storm Water Fund was outlined. It was a new fund proposed to collect funds and expenses that would cover storm water maintenance and capital expenses. The proposal was modeled at \$7.50 Equivalent Residential Unit (“ERU”), which would generate \$1,406,430. The transfers in (\$193,570) was the difference between the revenues generated and the need to have \$1.6 million to cover expenditures. That transfer would come from the General Fund. The expenses would be the shift of \$600,000 in the base General Fund, which was approximately \$490,000 in salary and benefits, \$110,000 in operational costs, and \$65,000 for a new storm water operations FTE. The budget would also include new storm water costs of \$409,272. This would leave \$525,728 in the Storm Water Fund Balance at the end of the year.

The CDRA Fund included a projected ending fund balance of \$1,965,752. It included the \$395,727 in funds that would be transferred to the Capital Projects Fund and \$204,832 in tax increment related to the Canyon Centre Project that was collected from 2015 through 2019. The new budget year would be the first year for the true triggering of the Tax Increment Financing (“TIF”) on the Canyon Center Parking Project. Projected revenues were about \$10,000 in interest and \$469,856 in property taxes related to the Canyon Centre Project. Expenses included \$10,000 to cover miscellaneous professional fees related to CDRA projects and \$674,688 in total costs related to the Canyon Centre Project. There would also be a transfer out to the Capital Improvements Fund of \$395,727. The projected ending balance would be \$1,365,195.

The Debt Service Fund was currently \$374,000 and included expenses such as \$338,079 for the police vehicle annual lease, \$310,217 for the Public Works vehicle lease, and \$1,131,250 for building bonds. There were also revenues and transfers of \$1,779,672.

Mr. Jurgens summarized the recommendations as well as the supplemental items included in the Tentative Budget Packet. Mayor Peterson thanked the Compensation and Budget Committees. He had several questions related to the Tentative Budget but noted that he would wait until the dedicated Work Session on May 18, 2021, to share them. Mayor Peterson reminded Council that this is a Tentative Budget and will continue to be adjusted.

c. Gravel Pit Discussion – Community and Economic Development Director, Michael Johnson.

Mr. Johnson reported that Tim Thompson from GeoStrata was present. He reported that GeoStrata has worked with the City for several years as the consulting geologist for sensitive land issues. Mr. Johnson shared an overview of the sensitive lands process as it relates to the gravel pit development. Some constraints on the site included fault lines, fault hazard areas, and steep slopes. It was critical to identify hazards and determine how they will be mitigated moving forward. Mr. Johnson explained that sensitive land requirements are regulated by Ordinance 19.72 - Sensitive Lands Evaluation and Development Standards (“SLEDS”). The gravel pit site contains multiple hazards and the SLEDS review process had been fairly intensive.

Once hazards are identified on-site, preliminary meetings with developers or applicants would take place. The City requires reports for each hazard on the site, which would be thoroughly discussed by the Development Review Committee (“DRC”). The DRC looks at each report and reviews it for compliance with the Code. Additional work or revised reports may be required until the DRC believes the hazards have been properly addressed given the phase of the project.

Reports on different hazards were reviewed for the gravel pit development application. Additional trenching and slope stability boring samples had also been required. Mr. Johnson noted that there had been several meetings with resident groups throughout the process to keep them up to date on the progress of the SLEDS review on the gravel pit development site. He shared an overview chart detailing the SLEDS process.

Mr. Johnson noted that the review cycle took place at different levels of detail depending on the phase of the process. For instance, the gravel pit development application was currently going through the initial entitlement phase. It was a legislative action and a rezone. However, it had more detail than a normal rezone. At the current level, reports that documented and analyzed all existing and suspected sensitive land hazards were required. Those reports were then reviewed. The process was intended to reach a point where the reports satisfactorily addressed all the hazards on site and proposed suitable ways to mitigate those hazards as the project moved forward.

During site plan approval and building permit review, studies and reports would need to be submitted again. This would ensure that the different ways the applicant intends to mitigate hazards were actually feasible. Mr. Johnson reported that field inspections and reports were also

conducted prior to and during the construction period. He shared proposed regulatory language to ensure compliance, which was as follows:

- Development in the PDD-2 zone is subject to all applicable Sensitive Lands Evaluation and Development Standards detailed in Title 19.72 and each phase of the development shall be required to properly complete additional site studies and reports necessary to comply with findings and recommendations of all completed and required sensitive lands reports (slope stability analyses, fault hazard studies, liquefaction studies, soils reports, etc.). Such requirements shall be complete before building permits are issued for each phase of the development and are subject to review and approval by the DRC.

An example related to the gravel pit development included the requirement that the foundation of each proposed building be trenched and observed when the finished grade is completed for each phase of the project. Those reports would be submitted to the City for review and feedback. Another example pertained to hillside reclamation and revegetation. That was identified as a Phase 1 requirement. After the City Council votes on the rezone, the applicant would need to come forward with plans about how they proposed to reclaim the hillside.

Mr. Johnson reported that the final site plans for each phase must comply with the approved Development Plan. Any site modification required due to sensitive land constraints would result in a new legislative process to amend the PDD-2 zone. There had been an extensive study to date, but with the level of detail and the size of the site, it was difficult to know where every hazard would be at the finished grade level at the current stage of the process.

The current status was outlined in an April 8, 2021, Summary Letter from GeoStrata as follows:

- It is our opinion, based on our reviews of the Western Geologic & Environmental geologic hazards reports and the G2 geotechnical engineering reports submitted to Cottonwood Heights City for review as of the March 18, 2021, G2 Response letter No. 4, that these geologic hazard reports and geotechnical engineering reports are sufficient to represent the required geologic hazard reports for the City's consideration of the requested rezone and initial master development plan. Based on our understanding of the current entitlement phase of this project, the SLEDS requirements concerning the completion of all studies prior to City approval (19.72.110) have been satisfied.

Based on the Summary Letter from GeoStrata, staff recommended that the City Council accept the SLEDS review as thoroughly and properly addressed during the final consideration of the PDD application. Mayor Peterson asked if Mr. Johnson serves as Chair of the DRC and if there were minutes available for review. Mr. Johnson explained that the DRC consists of staff representing each applicable department for a given development. The DRC does not have formal public meetings and minutes are not taken. However, there are internal notes. He explained that with sensitive land projects there is a provision in the ordinance that requires the City Council to affirm the DRC. That would come to the City Council as part of the consideration of the item.

Council Member Bruce asked about Ordinance 19.72.110 B. Mr. Johnson explained that it requires all necessary reports to be done. Based on the numerous reviews, feedback, and the Summary Letter from GeoStrata, staff felt that the provision for the rezone level had been satisfied. The reports were submitted and address how the applicant will mitigate and study hazards as the project moved forward. Mr. Johnson noted that additional trenching and hillside boring had been requested as part of the review of the project.

Council Member Bruce asked about sequencing. Mr. Thompson explained that GeoStrata looked at the site and the planned development and reviewed the SLEDS ordinance to ensure that all of the studies address the potential hazards identified for the site. Two hazards that were identified included faulting and seismically induced slope instability. Mr. Thompson noted that limitations should also be listed on reports. For instance, one of the noted limitations for the gravel pit site includes small displacement faults. He clarified that small displacement faults can be mitigated through avoidance or structural design.

Mr. Thompson discussed debris flow and explained that debris flow must have an active drainage source. There were no current sources of drainage onto the property. He also discussed slope stability and noted that it is a real issue. In order for one of the buildings to work, it will require a retaining wall as the face of the slope is cut. However, certain issues could not be fully addressed until there are more details about the specific building designs.

Council Member Bruce believed that if the City Council voted to move the gravel pit development forward, it would send a message to the community that everything had been checked and all items addressed. Mr. Johnson explained that the hazards would be recorded and publicized in many different places. The hazards on-site would be recorded on subdivision plats and the site design would need to show compliance and avoidance of those hazards. Council Member Bruce noted that a site-specific ground motion study may be needed before the project moves forward. Mr. Thompson explained that the Structural Engineer will know what is needed based on the type of building and architecture. Studies will likely be driven by the needs of the Structural Engineer.

Mayor Peterson asked about the timeline. Mr. Johnson reported that the full project was presented. There had already been discussions about roads, traffic, and sensitive lands. The final package for vote and consideration would be assembled soon. Mayor Peterson wondered if this was something that could be brought back one more time for further review. He explained that there are still unanswered questions related to the height of one of the buildings and traffic issues. Council Members Bracken and Petersen both agreed that an additional discussion would be beneficial. Mayor Peterson asked that Council share specific areas of concern with Mr. Johnson. The gravel pit development could be added to the agenda once more to discuss details further before it goes to a vote.

4. Review of Calendars and Upcoming Events.

a. July 19-24, 2021 – Butlerville Days

The above item was not discussed.

5. **Possible Closed Meeting to Discuss Litigation, Property Acquisition, and/or the Character and Professional Competence or Physical or Mental Health of an Individual.**

MOTION: Council Member Bracken moved to adjourn to the Business Meeting at 7:03 p.m. and return to the Work Session Closed Meeting after adjourning the Business Meeting. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The Council was in Closed Meeting from 8:39 p.m. to 9:38 p.m.

6. **Adjourn City Council Work Session.**

MOTION: Council Member Bracken moved to adjourn. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 9:38 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING
HELD TUESDAY, MAY 4, 2021, AT 7:00 P.M. THE MEETING WAS HELD
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Members Present: Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine Mikell, Council Member Douglas Petersen

Staff Present: City Manager Tim Tingey, City Attorney Shane Topham, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, Records Culture and Human Resources Director Paula Melgar, Community and Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Administrative Services Director S. Scott Jurgens, Culture Manager Ann Eatchel, Assistant Police Chief Paul Brenneman

BUSINESS MEETING

1.0 WELCOME AND DETERMINATION

1.1 Mayor Peterson, as the Chair of the City Council, will Read the Written Determination Concerning an Anchor Location for this Electronic Meeting During the Current Pandemic, Pursuant to Utah Code Annotated §52-4-207(4).

Mayor Mike Peterson called the meeting to order at 7:05 p.m. He read in its entirety the determination giving the Council the authority to hold the meeting via Zoom, pursuant to Utah Code Annotated §52-4-207(4).

2.0 PLEDGE AND ACKNOWLEDGEMENTS

Council Member Tali Bruce led the Pledge.

3.0 CITIZEN COMMENTS

Mayor Peterson opened the citizen comment period.

City Manager, Tim Tingey reported that a number of written comments were received prior to the meeting. The comments were forwarded to the City Council Members. Mr. Tingey read the names into the record as *Angela Bonugli, Dennis Iverson, Gary Pearson, Tom Adams, Mat and Micki Harris, Maggie Fowler, Kate Harrison, and Joey Buchan*. All comments expressed concerns related to short-term rentals.

Timothy Hallbeck commented on items discussed during the Work Session. He felt that the outdoor art piece being considered should be postponed for six months to one year due to the current social climate. Mr. Hallbeck also suggested that the solar project be postponed due to

rising construction prices. He believed the total cost would be much higher, even compared to six months ago, due to the increased cost of materials.

William McCarvill commented on the gravel pit development and the SLEDs ordinance. He read from Ordinance 19.72.110 B and commented that he did not believe the current process was following SLEDs as geological hazard reports continue to be submitted. Last year, the Planning Commission voted to recommend PDD-2 approval, even though sensitive land issues had not been fully evaluated and mitigated for Phase 1. Mr. McCarvill felt that recommendation was premature. The language of SLEDs did not consider phasing, but the PDD-2 included a total of seven phases. He felt that the City Attorney should confirm what is specified in the SLEDs ordinance prior to City Council approval of PDD-2. Mr. McCarvill also read from Section 19.72.150 and believed that less restrictive provisions are being applied. He asked that the City Council follow the SLEDs ordinance.

Austin Spencer reported that he was involved with short-term rentals and stated that they had created issues within the community. He had worked closely with Code Enforcement and commended them for their work. Mr. Spencer stated that he was no longer running the short-term rental and felt that the Code Enforcement process had worked. He expressed his support for short-term rentals in general and noted that there is a lot of support for them. Airbnb has transformed the way people travel and will continue to do so in some form or fashion. He felt there was a lot of positivity that can come from short-term rentals.

Jack Bloom identified himself as a licensed professional geologist in both Utah and California and addressed the gravel pit development project. Mr. Bloom had been following the project since 2018 and gave a presentation to several City officials in 2019 related to his concerns. He believed that the geologic hazards on the site pose too great a risk for a development that consists of high-rise buildings. There were multiple geologic hazards, such as ground rupture, ground shaking, ground tilting, buried landslides, and debris flow. Mr. Bloom believed there needs to be a site-specific ground motion study to determine the proper seismic parameters for building construction. He also felt that the risk from the hazards mentioned would exceed any mitigation efforts that could be done.

Matt Seamons identified himself as the New General Manager of the Courtyard Hotel that recently opened. He recognized the need for Airbnbs and believed they have a purpose for travelers with certain accommodation needs. However, he noted that it is important that short-term rentals are done legally and in accordance with the laws.

Heather McKell reported that she lives in the Russell Park neighborhood. She disagreed with Mr. Spencer that short-term rentals are a good idea in neighborhoods. She believed they are dangerous and made note of several safety concerns including increased theft, unknown tenants with unknown criminal histories, higher traffic activity, and more vehicles parked on the streets. Additionally, short-term rentals often have an excessive number of people staying in the home, which could tax the sewer system, utilities, and water usage. Ms. McKell felt that the laws need to be followed. She noted that the ordinances are intended to ensure the health, safety, and welfare of residents.

Ellen Birrell discussed the gravel pit development and noted that most earthquakes in the region occur during the pre-dawn hours. She expressed concerns about the idea of a condominium building being constructed along a fault line. Ms. Birrell stated that strict enforcement of SLEDS is gravely important. She commented that the Planning Commission had an item on their agenda to amend SLEDS. While she was not certain what the amendment would entail, Ms. Birrell hoped it would not weaken SLEDS. She did not believe that ordinances should be altered to meet the needs or desires of developers. It is important to prioritize the health and safety of residents.

Angela Bonugli commented on the difference between short-term rentals and hotels. Hotels are required to follow certain rules, codes, and ordinances. They also have strict guidelines related to sanitation. Short-term rentals are not necessarily held to the same standards and it would be difficult to determine what kind of cleaning processes are in place. Ms. Bonugli disagreed with the comments made by Mr. Spencer. She noted that he stopped renting the Russell Park home but the Wasatch Management Company that he works for has an additional property in Cottonwood Heights that they are willing to rent out short-term. She did not want homes in R1 neighborhoods to deal with a revolving door of unknown tenants.

Kate Harrison did not believe that single-family neighbors should be forced to live next to short-term rentals when Cottonwood Heights already has legal places where short-term rentals are allowed. She asked Police Chief, Robby Russo, to explain in further detail why there is such a disconnect between the fines and penalties outlined in the ordinance and the court system decisions. Mayor Peterson explained that questions are not answered during the citizen comment period. However, someone would reach out to her to share that information.

Dennis Iverson wondered if it would be possible for Chief Russo to make it known that the residents of Cottonwood Heights want stricter enforcement of fines and penalties. Those fines and penalties would need to be significant enough to deter the behavior. Mr. Iverson believed that there is a place for short-term rentals in Cottonwood Heights, however, it cannot be within the R-1 neighborhoods. He hoped there would be more of an effort made to focus on stricter enforcement and fines.

Jason Ehrhart shared his experience with a short-term rental in his neighborhood. There had been several issues related to parking, traffic, parties, and so on. He felt it was crucial that the City follow the recommendations outlined during the Work Session. Mr. Ehrhart noted that both the Airbnb and VRBO websites specify that they follow local ordinances. He suggested reaching out to those websites to ensure that they are actually being enforced. There should be no listings for short-term rentals in R-1 neighborhoods within the City.

Tom Adams commented that Utah is a tourism-based economy. Approximately five million tourists per year come to the canyons to ski. There are a lot of pros and cons associated with that amount of tourism. Mr. Adams agreed with Mr. Spencer that Airbnb changed the way people travel. As such, he encouraged the City Council to update some of the language related to short-term rentals to ensure that it is as up-to-date and relevant as possible. Mr. Adams read from Section 1.8.20 and wondered what constitutes a corporation. He believed that those who use Airbnbs for their short-term rentals are run by a corporation. Further clarification would be beneficial.

Jessica Chappell reported that she works as a Structural Engineer and lives in Cottonwood Heights. She explained that building over faults occurs routinely. However, the gravel pit development has special faults across the site. That means that the standard seismic design forces do not apply in those areas. She believed that a probabilistic seismic hazard analysis would be needed for the project. Mr. Chappell wondered if there would be a peer review of the structural design for the 10-story building.

Joey Buchan encouraged Chief Russo to see if more could be done to enforce the short-term rental ordinance. He described the process of trying to put a chicken coop in his backyard and felt it was odd that it is more difficult to do that than to operate an Airbnb. He hoped the City Council would focus on this issue and that Chief Russo would be able to enforce the ordinances that are in place.

There were no further citizen comments. Mayor Peterson closed the citizen comment period.

4.0 PUBLIC COMMENTS

4.1 Gravel Pit Development – Introduction by Community and Economic Development Director, Michael Johnson.

Community and Economic Development Director, Michael Johnson reported that he has addressed the gravel pit development multiple times and also during the Work Session.

Mayor Peterson opened the public comment period.

Ken Garner reported that as a PE Electrical Engineer, he deals with seismic issues related to the bracing of mechanical-electrical components within a building. The City should have a good process in place to ensure that the bracing calculations are done correctly and inspected. Mr. Garner discussed traffic and reported that a T intersection is much safer than a curved intersection. The Traffic Engineers responsible for the study and design should be able to share a statistical analysis with the City Council. Mr. Garner noted that to do a curved intersection, it would only be safe if there is a traffic semaphore. That would also set things up for future traffic to the southern portion of the development.

Eric Kraan shared comments related to the PDD process. He recognized that some things may need to be corrected but he had begun to wonder if the Code is poorly written. Mr. Kraan suggested following the example of Sandy City and imposing a six-month moratorium on all PDD applications while staff presents a new PDD process. He overviewed several areas of concern and believed the City needed to have a clear idea of its intentions.

There were no further comments. Mayor Peterson closed the public comment period.

4.2 Proposed Budget for Fiscal Year 2021-2022 and Adoption of Tentative Budget – Finance and Administrative Services Director, Scott Jurges.

Finance and Administrative Services Director, Scott Jurges shared the Tentative Budget. He reported that early projections of the General Fund ending fund balance for the 2020/2021 budget

were approximately \$6.3 million. That would leave the City with approximately \$4.4 million for appropriation at the beginning of the new budget year. Property taxes were budgeted at \$8,113,137, which included new growth of \$50,000 as a placeholder while awaiting the Certified Tax Rate and actual new growth figure. It would be available in mid-June 2021. Sales tax revenues had the biggest adjustment because of the uncertainty caused by the COVID-19 pandemic. The current sales tax revenue budget was set at \$5,750,000. However, the expected sales tax revenues were slightly above \$7 million. Based on that growth trend, the sales tax revenue estimate for the Tentative Budget was \$7.2 million.

Class C Road Funds projected an increase of \$30,000 from the current year. The total revenues budgeted were \$1,530,000 greater in revenue than what was adopted for the current year budget. This was primarily due to the sales tax increases. The American Recovery Act of 2021 revenues had not been included. When they were received, a budget adjustment would be discussed with the City Council. Mr. Jurgens discussed the employee cost changes, such as the market adjustment for a total of \$304,123 and the Cost-of-Living Adjustment (“COLA”) of 1.4%, which matches the national Consumer Price Index (“CPI”). There was also a merit increase with an average of 3.62%. The total employee cost changes resulted in an increase of \$607,368 from the current budget.

The section, Department or Division Items, was overviewed. \$45,000 needed to be added to the Elections budget to cover the cost of City elections. There was also the addition of \$30,000 to cover any litigation costs not covered by the Trust. A \$2,500 contribution for the Forbush Cemetery had been included and \$5,000 had been added back to the Central Wasatch Commission membership contribution. \$66,000 was added back to fund the Butlerville Days, which had been eliminated in 2020. There was an overall police cost increase of \$135,500, which included VECC/Versaterm dispatch fees and overtime for snow days traffic control. There was an overall fire increase of \$161,000, which was a 4% placeholder. Mr. Jurgens explained that it would likely be closer to \$117,727, but that had not been finalized. There was an overall increase of \$167,384 for Public Works, which included items such as additional stormwater operations and seasonal help increase.

Transfers out of the General Fund included \$1,832,762 for Public Works capital projects and \$1,779,546 for debt service to cover debt related to land and buildings, police vehicles, and Public Works vehicles. There was also \$193,570 to go to the Storm Water Fund. That would leave a Fund Balance of \$5,496,494. This would leave approximately \$3,691,913 available for appropriation at the end of the year.

The Capital Improvements Fund revenues were overviewed. Mr. Jurgens reported that there is approximately \$87,146 available for appropriation at the beginning of the year. It was recommended that there be a transfer from the General Fund of \$1,832,762 and the CDRA Funds of \$395,757. Mr. Jurgens noted that there was an additional source of revenue from the quarter-of-a-quarter funding that would generate \$400,000 in annual revenue. Further clarification was needed regarding the start date. There were also projections for \$350,000 in grant revenue to offset the Solar Project at City Hall. That number would be adjusted when more information becomes available.

Mr. Jurges discussed the Capital Improvements Fund expenses. This included the Public Works Capital Improvements Fund (\$2,155,512) with items such as speed mitigation projects (\$39,480), and the Bengal Boulevard walkway and intersection (\$20,000). The trails projects included expenses of \$61,000 to complete funding for the Ferguson Canyon Park Project. However, it was recently discovered that approximately \$150,000 of grant money would be received to offset some of those costs. They would need to be incorporated into the budget before it was finalized.

The Storm Water Fund was outlined. It was a new fund proposed to collect funds and expenses that would cover stormwater maintenance and capital expenses. The proposal was modeled at \$7.50 Equivalent Resident Unit (“ERU”). That would generate \$1,406,430. The transfers in (\$193,570) was the difference between the revenues generated and the need to have \$1.6 million to cover expenditures. There would be shifted expenses of \$600,000 in the base General Fund, which was approximately \$490,000 in salary and benefits and \$65,000 for a new Storm Water Operations FTE. This budget would also include new stormwater costs of \$409,272. It would leave approximately \$525,728 in the Storm Water Fund Balance at the end of the year.

The CDRA was discussed. \$395,727 would be transferred to the Capital Projects Fund. There was also \$204,832 in tax increment related to the Canyon Centre project that had already been collected from 2015-2019. Projected revenues were about \$10,000 in interest and there was \$469,856 in property taxes related to the Canyon Centre Project. Expenses included \$10,000 to cover miscellaneous professional fees related to CDRA projects and \$674,688 in total costs related to the Canyon Centre Project. There would also be a transfer out to the Capital Improvements Fund of \$395,727. The projected ending balance would be \$1,365,195.

The Debt Service Fund currently had \$374,000 and included expenses such as \$338,079 for the police vehicle annual lease, \$310,217 for the Public Works vehicle lease, and \$1,131,250 for building bonds. There were also revenues and transfers of \$1,779,672. Mr. Jurges explained that there were still a couple of items that needed to be taken care of within the budget. He overviewed the recommendations included in the packet. A copy of the detailed Tentative Budget would be posted on the City’s website for citizen review.

Mr. Tingey reported that the budget process began in January 2021 and there had since been a number of meetings with the Budget Committee and Compensation Committee. Staff recommended adoption of the Tentative Budget. Mr. Tingey noted that there would be an opportunity for further discussion on May 18, 2021, during the City Council Work Session. Additional input would be received through public comment on June 1, 2021, and the City Council would look at adoption of the budget on June 15, 2021.

Mayor Peterson opened the public comment period.

Ken Garner thanked those who worked on the budget. He was pleased to see money to fund increased diversity and de-escalation training for the police. Mr. Garner felt that was incredibly important.

Timothy Hallbeck noted that the Butlerville Days event will take place this year but they would not be paying the ride operators. He believed that amount was still included in the Tentative

Budget and wondered if it should be changed. Mayor Peterson explained that Butlerville Days would be looked into further during the final budget discussions.

There were no further comments. Mayor Peterson closed the public comment period.

5.0 ACTION ITEMS

5.1 Consideration of Resolution 2021-17 Adopting a Tentative Budget for the Period of 1 July 2021 through 30 June 2022; Providing for Public Inspection of Such Budget; Establishing the Time and Place of a Public Hearing to Consider Adoption of Such Budget; and Providing for Newspaper Publication of Such Public Hearing.

MOTION: Council Member Bracken moved to APPROVE the Tentative Budget for the 2021/2022 fiscal year. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

5.2 Consideration of Resolution 2021-18 Approving an Agreement with Malen Pierson for Public Artwork.

Mayor Peterson opened up the discussion related to Resolution 2021-18, which pertained to public artwork. He commented that it is a beautiful piece and noted that the City will be sensitive to the concerns raised during the citizen comment portion of the meeting. Council Member Petersen believed the artwork would add to the atmosphere. Council Member Bruce expressed gratitude that the Historic Committee had worked with the Arts Council.

MOTION: Council Member Petersen moved to APPROVE Resolution 2021-18 for an Agreement with Malen Pierson for Public Artwork. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

5.3 Consideration of Resolution 2021-19 Approving an Agreement with Modern Display Services, Inc. for the Design and Construction of a Parade Float.

MOTION: Council Member Bracken moved to APPROVE Resolution 2021-19 for an Agreement with Modern Display Services, Inc. for the design and construction of a parade float. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

5.4 Consideration of Resolution 2021-20 Approving an Interlocal Agreement with Salt Lake County for Municipal Election Services.

Records Culture and Human Resources Director, Paula Melgar explained that Resolution 2021-20 was an agreement with Salt Lake County to run municipal election services. She noted that a traditional election would cost approximately \$20,000 more than Ranked-Choice Voting. If the City Council chooses Ranked-Choice Voting, some of the money could be put toward education.

Council Member Bruce commented that one of the advantages of Ranked-Choice Voting is the elimination of the primary. It would save time and energy for candidates and reduce expenses for the City. Additionally, the ranking system would allow voters to feel like their second, third, and fourth choice candidates still matter. Mayor Peterson agreed.

Council Member Bracken overviewed common areas of concern related to Ranked-Choice Voting. One concern was that it is too complicated and voters will not understand. He reported that the vast majority of research proved that this is incorrect. Peer-reviewed research also supports the fact that voters are able to understand Ranked-Choice Voting. Council Member Bracken explained that ballot errors do occur but at no greater rate than with conventional voting methods. The most common reason for an inactive ballot was due to a voluntary abstention. Only 0.9% of ballots were inactive due to voter error.

There were concerns related to all of the different votes. For instance, perhaps a fourth or fifth choice could impact the election results. Council Member Bracken explained that this did not happen often and typically the winner ranked in the top three choices 67% of the time. He also reported that for single-seat elections, where there would be one winner in a district, there was no significant difference between using Ranked-Choice Voting and the traditional method. The winners would come out the same. Council Member Bracken noted that Ranked-Choice Voting essentially allows there to be a primary and general election on one ballot. Since Cottonwood Heights has single-seat district elections, he believed there would be no advantage or disadvantage to using Ranked-Choice Voting. Many other cities in Utah had also chosen to participate in Ranked-Choice Voting.

Council Member Petersen appreciated the work done by Council Member Bracken to help the City Council better understand the process. He also stressed the importance of investing time and money into educating residents about Ranked-Choice Voting. Mayor Peterson noted that the education process is essential.

MOTION: Council Member Bracken moved to APPROVE Resolution 2021-20 for an Interlocal Agreement with Salt Lake County for Municipal Election Services and ask City staff to notify the appropriate authorities that there will be a Ranked Choice Voting Election in November 2021 with no primary. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

6.0 CONSENT CALENDAR

6.1 Approval of the City Council Work Session, CDRA Meeting, and Business Meeting Minutes for March 2, 2021, and the Work Session and Business Meeting Minutes for April 20, 2021.

MOTION: Council Member Petersen moved to APPROVE the City Council Work Session, CDRA Meeting, and Business Meeting Minutes for March 2, 2021, and the Work Session and Business Meeting Minutes for April 20, 2021. The motion was seconded by Council Member Mikell. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Abstain, Mayor Mike Peterson-Aye. The motion passed.

7.0 ADJOURN CITY COUNCIL BUSINESS MEETING AND MOVE INTO A WORK SESSION CLOSED MEETING.

MOTION: Council Member Bruce moved to adjourn. The motion was seconded by Council Member Bracken. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Abstain, Mayor Mike Peterson-Aye. The motion passed with the unanimous consent of the Council.

The meeting adjourned at 8:39 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Council Work and Business Meetings held Tuesday, May 4, 2021.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: May 18th, 2021